

AMENDED IN ASSEMBLY JUNE 24, 2009

AMENDED IN SENATE APRIL 14, 2009

Senate Joint Resolution

No. 1

Introduced by Senator Ducheny

January 27, 2009

Senate Joint Resolution No. 1—Relative to the Sales Tax Fairness and Simplification Act.

LEGISLATIVE COUNSEL'S DIGEST

SJR 1, as amended, Ducheny. ~~Sales Tax Fairness and Simplification Act.~~ *Remote sales: use taxes.*

This measure would urge members of the California congressional delegation to join in support of legislative action by the Congress of the United States to allow states to collect use taxes on ~~products sold over remote sales~~ and to protect small businesses that use the Internet, and for the President to sign that legislation.

Fiscal committee: no.

1 WHEREAS, United States Supreme Court decisions (National
2 Bellas Hess v. Department of Revenue (1967) 386 U.S. 753 and
3 Quill Corp. v. N.D. (1992) 504 U.S. 298) have interpreted the
4 Commerce Clause of the United States Constitution to deny states
5 the authority to require the collection of use taxes by out-of-state
6 sellers that have no physical presence in the taxing state; and
7 WHEREAS, The failure to collect use taxes on remote sales
8 through traditional carriers and the erosion of sales and use tax
9 due to electronic commerce threatens the future viability of the
10 sales and use tax as a stable revenue source for state and local
11 governments; and

1 WHEREAS, ~~The Center for Business and Economic Research~~
2 ~~at the University of Tennessee has estimated that states could lose~~
3 ~~as much as \$33 billion in 2008 because they were not able to collect~~
4 ~~taxes on remote sales, including sales on the Internet; and~~

5 WHEREAS, ~~The same study estimated that California may have~~
6 ~~lost as much as \$4 billion in 2008 because of the failure to require~~
7 ~~remote sellers to collect our state's use taxes; and~~

8 *WHEREAS, States and localities that use sales and use taxes*
9 *as a revenue source are not collecting revenue from a significant*
10 *share of electronic commerce; and*

11 WHEREAS, Since 1999, state legislators, governors, local
12 elected officials, state tax administrators, and representatives of
13 the private sector have worked to develop a streamlined sales and
14 use tax system for the 21st century; and

15 WHEREAS, Between 2001 and 2002, 40 states enacted
16 legislation expressing the intent to simplify the states' sales and
17 use tax collection systems, and to participate in discussions to
18 allow for the collection of states' sales and use taxes; and

19 WHEREAS, The actions of the states provide justification for
20 Congress to enact legislation to allow states to require remote
21 sellers to collect the states' use tax; and

22 WHEREAS, ~~By January 1, 2008, 22 states: Arkansas, Indiana,~~
23 ~~Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada,~~
24 ~~New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, South~~
25 ~~Dakota, Tennessee, Texas, Utah, Vermont, Washington, West~~
26 ~~Virginia, and Wyoming, representing over 35 percent of the total~~
27 ~~population of the United States, have enacted legislation to provide~~
28 ~~a state statutory basis to require remote sellers to collect the states'~~
29 ~~use tax; and~~

30 WHEREAS, The California State Legislature and our colleagues
31 in other states have shown the resolve to acknowledge the
32 complexities of the current sales and use tax system, have worked
33 with the business community to formulate alternative collection
34 systems, and have shown the political will to enact the necessary
35 changes to make the collection systems the law; and

36 WHEREAS, Until Congress and the President enact legislation;
37 allowing states to require remote sellers to collect the states' use
38 tax, states are unlikely to close the revenue gap between what is
39 owed on remote transactions and what is collected; and

1 *WHEREAS, When considering legislation, Congress should*
2 *ensure that any federal legislation enabling use tax collection on*
3 *remote sales does not adversely affect California small businesses*
4 *that sell remotely and should adopt a meaningful small business*
5 *exception from the legislation; and*

6 WHEREAS, Members of the United States Congress have
7 termed this federal legislation as “fiscal relief for the states that
8 does not cost the federal government a single cent” and ensures
9 the viability of the sales and use tax as a state revenue source; now,
10 therefore, be it

11 *Resolved by the Senate and the Assembly of the State of*
12 *California, jointly, That the California State Legislature calls upon*
13 *the members of our congressional delegation to join in support of*
14 *legislative action by the Congress of the United States to allow*
15 *states to collect use taxes on ~~products sold over~~ remote sales and*
16 *to protect small businesses that use the Internet; and be it further*

17 *Resolved, That the California State Legislature urges the*
18 *President to sign into law legislation allowing for the collection*
19 *of use taxes on ~~products sold over~~ remote sales and protect small*
20 *businesses using the Internet, upon its passage by the Congress;*
21 *and be it further*

22 *Resolved, That the Secretary of the Senate transmit copies of*
23 *this resolution to the President and Vice President of the United*
24 *States, to the President pro Tempore of the United States Senate,*
25 *to the Speaker of the House of Representatives, to each Senator*
26 *and Representative from California in the Congress of the United*
27 *States, and to the author for appropriate distribution.*